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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

16 CR 342(SHS)

5 ALEX LICHTENSTEIN and  
6 DAVID VILLANUEVA,

7 Defendants.  
8 -----x

9 June 20, 2016  
10 2:37 p.m.

11 Before:

12 HON. SIDNEY H. STEIN,

13 District Judge

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: KAN M. NAWADAY

RUSSELL CAPONE

18 MARTIN BELL

Assistant United States Attorneys

19 RICHARD FINKEL

20 Attorney for Defendant Lichtenstein

21 ANDREW QUINN

22 Attorney for Defendant Villanueva

23 ALSO PRESENT: Jennifer Ranucci, FBI  
Ashley Cosme, Pretrial

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(In open court)

THE DEPUTY CLERK: United States against David Villanueva and Alex Lichtenstein, 16 Crim. 342. Counsel, please state your names for the record.

MR. NAWADAY: Good afternoon, your Honor. Kan Nawaday, Martin Bell and Russell Capone for the government. Joining us is Special Agent Jennifer Ranucci of the FBI, and also United States Pretrial Services Officer Cosme.

THE COURT: Good afternoon.

MR. QUINN: Good afternoon, your Honor. Andrew Quinn representing David Villanueva.

THE COURT: Who's present. Good afternoon.

MR. FINKEL: Good afternoon, your Honor. Richard A. Finkel representing Alex Lichtenstein.

THE COURT: Good afternoon.

You may be seated in the courtroom.

I gather, government, that this is for an arraignment on S2 for Mr. Lichtenstein and an initial appearance and arraignment on S2 for Mr. Villanueva, is that correct?

MR. NAWADAY: That's correct, your Honor. And Defendant Villanueva was arrested at approximately 6:00 a.m. this morning.

THE COURT: Thank you.

Let's do the arraignment on S2 of Mr. Lichtenstein first.

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1           Mr. Lichtenstein, if you would rise. Sir, what's your  
2 full name?

3           DEFENDANT LICHTENSTEIN: Alex Lichtenstein.

4           THE COURT: Mr. Lichtenstein, have you received a copy  
5 of indictment S2 16 Crim. 342, sir?

6           DEFENDANT LICHTENSTEIN: Yes, your Honor.

7           THE COURT: Have you read it?

8           DEFENDANT LICHTENSTEIN: Yes.

9           THE COURT: You have the right to have me read it  
10 aloud in open court, just as you did on S1. And similarly, you  
11 also can waive my reading of it. It's whatever you wish.

12           Do you want me to read it, or do you want to waive my  
13 reading of S2?

14           MR. FINKEL: We'll waive a reading of the indictment,  
15 your Honor.

16           THE COURT: Mr. Lichtenstein, is that what you wish?

17           DEFENDANT LICHTENSTEIN: Yes.

18           THE COURT: All right. I accept that as a knowing and  
19 voluntary waiver of the reading of the S2 indictment.

20           How do you plead, sir, to the charges against you in  
21 that indictment?

22           DEFENDANT LICHTENSTEIN: Not guilty, your Honor.

23           THE COURT: I accept your plea of not guilty. Thank  
24 you, Mr. Lichtenstein. You may be seated.

25           Now let me turn to Mr. Villanueva.

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1 Mr. Villanueva, if you would rise.

2 Sir, what's your full name, sir?

3 DEFENDANT VILLANUEVA: First name David, last name  
4 Villanueva.

5 THE COURT: Mr. Villanueva, I wish to advise you of  
6 certain rights you have. Because this is your initial  
7 presentment before a judicial officer, you have the right to  
8 remain silent, sir. You don't have to make any statement to  
9 the law enforcement authorities whatsoever. And even if you  
10 have already made one or more statements to the authorities,  
11 you don't have to make any additional statements at all.

12 Do you understand those rights?

13 DEFENDANT VILLANUEVA: I understand, your Honor.

14 THE COURT: Do you also understand that any statements  
15 that you do make can be used against you?

16 DEFENDANT VILLANUEVA: Yes.

17 THE COURT: You also have the right to be represented  
18 by an attorney today and at all future proceedings in this  
19 case. And if you cannot afford an attorney, I will appoint an  
20 attorney to represent you at no cost to you. You won't have to  
21 pay for that attorney, and you won't have to pay any court  
22 costs at all.

23 Do you understand those rights?

24 DEFENDANT VILLANUEVA: I understand, your Honor.

25 THE COURT: It appears that you do have an attorney

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1 here today. Is that true?

2 DEFENDANT VILLANUEVA: Correct, your Honor.

3 THE COURT: Who is that?

4 DEFENDANT VILLANUEVA: Attorney Quinn.

5 THE COURT: And, Mr. Quinn, I take it you're retained,  
6 sir?

7 MR. QUINN: I am, your Honor.

8 THE COURT: Thank you.

9 Have you received a copy of the S2 indictment against  
10 you, sir?

11 DEFENDANT VILLANUEVA: Yes, your Honor.

12 THE COURT: Have you read it?

13 DEFENDANT VILLANUEVA: Yes, your Honor.

14 THE COURT: Did you discuss it with your attorney?

15 DEFENDANT VILLANUEVA: Yes, your Honor.

16 THE COURT: Mr. Lichtenstein, I should have asked you  
17 that as well.

18 Have you discussed the S2 indictment with your  
19 attorney?

20 DEFENDANT LICHTENSTEIN: Yes, sir.

21 THE COURT: Thank you. You may be seated, sir.

22 Now, Mr. Villanueva, you also have the right to have  
23 me read that indictment to you in open court or you can waive  
24 my reading of it. It really doesn't matter.

25 Do you want me to read it?

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1           DEFENDANT VILLANUEVA: I'm going to waive it, your  
2 Honor.

3           THE COURT: I accept that as a knowing and voluntary  
4 waiver of the right to have the indictment read.

5           How do you plead to the charges against you in the  
6 indictment S2 16 Crim. 342, sir?

7           DEFENDANT VILLANUEVA: Not guilty, your Honor.

8           THE COURT: I accept your plea of not guilty,  
9 Mr. Villanueva.

10           What I'd like to do is establish the same schedule on  
11 the S2 indictment that we already have on the S1 indictment.  
12 And let me tell each of you what my notes indicate on the S1  
13 indictment.

14           That is, the last day of discovery by the government  
15 is July 8. The last day for defense motions is August 16. On  
16 August 16 at 11:00 a.m. we'll have a pretrial conference. And  
17 if there are motions, I'll set a briefing schedule on any  
18 motions that there are. I'll read them. I'll skim the  
19 motions. At that time I'll talk to the parties about what they  
20 believe an appropriate briefing schedule is; that is, for  
21 response. And if any fact hearing is needed, I'll set a date  
22 for the fact hearing on August 16th as well. That's the  
23 schedule on S1.

24           Mr. Finkel, I don't think there's any reason why I  
25 should alter that on S2. Are you aware of any?

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1 MR. FINKEL: No, your Honor. As your Honor wishes.

2 THE COURT: Are you aware of any reason I should alter  
3 it, government?

4 MR. NAWADAY: No, your Honor. We are prepared to  
5 proceed on that schedule.

6 We did provide this morning just now to Mr. Quinn  
7 certain discovery that we had previously provided to  
8 Mr. Lichtenstein's attorney. And we think we can finish our  
9 production of discovery as scheduled on July 8.

10 THE COURT: Mr. Quinn, unless you have any objection,  
11 I'll set that as the schedule on S2.

12 MR. QUINN: Judge, I don't anticipate -- I have no  
13 objection now. And I would expect, unless I discover something  
14 in discovery that would require me to make an additional  
15 request for time, I think that schedule should be fine.

16 THE COURT: Fine. Then I hereby impose it.

17 I take it there's an issue of bail that needs to be  
18 resolved. Bail needs to be set or denied in connection with  
19 Mr. Villanueva's presentment here today. Government?

20 MR. NAWADAY: That's correct, your Honor. The parties  
21 have conferred and have proposed bail conditions for your  
22 Honor's consideration. The parties propose --

23 THE COURT: I'm sorry. Let me just get out the report  
24 of pretrial services department, which I've read.

25 Go ahead, sir.

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1 MR. NAWADAY: The parties propose that the defendant  
2 be released on a \$200,000 personal recognizance bond, cosigned  
3 by two financially responsible persons. Defendant surrender  
4 his passport and make no new applications for travel documents.  
5 Defendant's travel be restricted to the Southern and Eastern  
6 Districts of New York. Defendant be put on regular pretrial  
7 services supervision. Defendant surrender all firearms, to the  
8 extent they haven't already been surrendered. And defendant  
9 refrain from possessing firearms. And the defendant can be  
10 released on his own signature today, with the financially  
11 responsible persons to come sign within one week.

12 THE COURT: Mr. Quinn, I gather from what Mr. Nawaday  
13 said that that's acceptable to the defense?

14 MR. QUINN: It is, Judge. We conferred this morning.  
15 I'm aware of that. I anticipate that. We've already got the  
16 two FRPs lined up, so I don't anticipate any difficulty meeting  
17 that.

18 I will note, your Honor, that my client's passport is  
19 already in possession of the federal government. So that was  
20 surrendered this morning. And he is not in possession of any  
21 weapons. They were all removed --

22 THE COURT: What happened to them? He has weapons as  
23 a police officer. Where are they?

24 MR. QUINN: They were taken by the New York City  
25 Police Department, your Honor.



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1 THE COURT: He has no personal weapon, anything of  
2 that nature?

3 MR. QUINN: He doesn't have any other weapons in the  
4 house or anywhere else under his name. That's correct, Judge.

5 THE COURT: Thank you, sir.

6 Given that, I am going to impose the following bail  
7 conditions. And Mr. Villanueva is eligible to be released on  
8 those conditions.

9 First, regular pretrial services supervision. A  
10 direction -- I'm informed by defendant's counsel that he turned  
11 his passport over to the government already. So a direction  
12 will be to not make any additional applications for passports  
13 or travel documents. I'm going to restrict travel to the  
14 Southern and Eastern Districts of New York. I'm going to set a  
15 \$250,000 personal recognizance bond signed by two financially  
16 responsible persons.

17 MR. QUINN: Judge, we had agreed to 200, your Honor.

18 THE COURT: I'm sorry. 200, then. \$200,000 personal  
19 recognizance bond.

20 MR. QUINN: Thank you.

21 THE COURT: Signed by two financially responsible  
22 persons.

23 If there's any dispute as to whether the applicants  
24 are financially responsible, it can be brought to my attention.  
25 Those signatures are to be affixed within one week. The

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1 defendant may be released today upon his signature on the  
2 \$200,000 personal recognizance bond. The defendant is not to  
3 apply for licenses for additional firearms and is not to  
4 possess any firearms whatsoever.

5 I'm also going to direct that Mr. Villanueva have no  
6 contact with any codefendant in this case or anyone he has  
7 reason to believe is involved in the case -- if there's any  
8 issue, he can speak with his counsel about that -- unless his  
9 lawyer is present.

10 I think that's all the conditions. Government, is  
11 that all the conditions the government recited?

12 MR. NAWADAY: Yes, your Honor.

13 THE COURT: As agreed upon? All right.

14 Does your wife have a passport, Mr. Villanueva?

15 DEFENDANT VILLANUEVA: Yes.

16 THE COURT: I'd like that turned over to the  
17 government as well. That's another -- that's an additional  
18 condition.

19 MR. QUINN: Judge, if you could just give us 24 to 48  
20 hours to get that done.

21 THE COURT: Of course.

22 MR. QUINN: Thank you.

23 THE COURT: Within the week. That's perfectly all  
24 right.

25 MR. QUINN: Thank you.

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1 THE COURT: Mr. Quinn, I wish to inform you what you  
2 may already know; that is, that Mr. Capone was a law clerk of  
3 mine about a decade ago.

4 MR. QUINN: I heard that, Judge.

5 THE COURT: Thank you.

6 MR. QUINN: I appreciate you letting me know, Judge.

7 THE COURT: Anything else?

8 MR. NAWADAY: Your Honor, the government moves to  
9 exclude time under the Speedy Trial Act until August 16, 2016,  
10 the date of the next conference. The exclusion is appropriate  
11 because it will permit the defense to review the discovery and  
12 determine what, if any, motions should be filed.

13 THE COURT: Well, it's already in place in this  
14 action, but I think there's no harm in imposing it again,  
15 applying it again.

16 Mr. Quinn, do you have any objection?

17 MR. QUINN: No, your Honor.

18 THE COURT: Then on motion of the government -- and I  
19 take it, Mr. Finkel, you don't have any objection either, since  
20 it's already --

21 MR. FINKEL: Yes, your Honor. No objection.

22 THE COURT: On motion of the government, and with the  
23 consent of each of the defense attorneys on behalf of their  
24 respective clients, I hereby exclude time from today until  
25 August 16th from calculation under the Speedy Trial Act. I

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1 make the finding that the ends of justice outweigh the  
2 interests of the public and of each of the defendants in a  
3 speedy trial. I take it, I believe the motion is being made  
4 under 18, United States Code, Section 3161(h)(7)(A). And I am  
5 imposing it in the interest of justice, an exclusion for  
6 purposes to allow the government to fulfill its discovery  
7 obligations and the defense to determine what motions, if any,  
8 it intends to make, and if the parties wish to commence  
9 discussions toward a consensual resolution here. The exclusion  
10 is from today until August 16th.

11 Anything additional I can do for the government?

12 MR. NAWADAY: No, your Honor.

13 THE COURT: Anything additional I can do for  
14 Mr. Lichtenstein?

15 MR. FINKEL: Nothing. Thank you, your Honor.

16 THE COURT: Anything additional I can do for  
17 Mr. Villanueva?

18 MR. QUINN: No. Thank you, Judge.

19 THE COURT: Thank you, then, everyone. I'll see you  
20 on August 16th. Thank you.

21 (Adjourned)  
22  
23  
24  
25